

INTERVIEW SUMMARY BY APPLICANT

At the outset, the Applicants acknowledge with appreciation the courtesy extended by the Examiner during the telephone interview conducted October 6, 2006. During the telephone interview, the applicants and their representative provided an overview of the invention and explained their position for patentability both under 35 U.S.C. § 112, first paragraphs, and under 35 U.S.C. § 103.

With regard to 35 U.S.C. § 112, the applicants and their representative proposed certain clarifying amendments to claim 1 and also pointed to the teachings on page 10 of the specification regarding the entry server and the pseudo message. Agreement was reached that in light of the clarifying amendments and those teachings, the grounds of rejection under 35 U.S.C. § 112 would be overcome.

With regard to 35 U.S.C. § 103, the applicants and their representative noted that the logs of *Mangipudi et al* are created only from the back-end servers 210A, 210B, 210C, 210D, which is different from what is done in the present claimed invention. The applicants and their representative also noted that the teachings of *Caccavale* applied against the claim limitation directed to a pseudo message do not perform the same function in the same way to achieve the same result. The Examiner replied that she would reconsider the applied references upon filing of a formal Amendment.

REMARKS

The Office Action mailed July 13, 2006, has been carefully considered. In response thereto, the present application has been amended in a manner which is believed to place it into consideration for allowance. Accordingly, reconsideration and allowance are respectfully solicited in view of the foregoing amendments and the following remarks.

The Applicants respectfully traverse the rejection of claim 1 under 35 U.S.C. § 112, first paragraph. Entry servers and pseudo messages are disclosed in the originally filed specification in the paragraph spanning pages 10 and 11 in sufficient detail to enable one skilled in the art to make and use the invention.

The Applicants further submit that the present Amendment overcomes the rejection of claim 1 under 35 U.S.C. § 112, second paragraph.

Moreover, the Applicants respectfully traverse the rejection of claims 1 and 3 under 35 U.S.C. § 103(a) over *Lamberton et al* in view of *Mangipudi et al* and *Caccavale*.

The present claimed invention monitors the performance and availability of application servers on a network. The performance and availability include a percentage of time that each of the application servers is available to an end user relative to the time the application servers are intended to be available and a responsiveness of the application servers to the end user in terms of a delay between the end user's entering data into a workstation keyboard and a response from one of the application servers with new data on the user's workstation screen. To that end, the present claimed invention has features such as the following. At least one performance monitor process is run on the network and watches network activity to and from the application servers to entry servers which connect the network to the end user's workstation. A response is determined for the pseudo message for each segment of the network traversed by the pseudo message to

determine where problems regarding the availability exist within the network connection for the entry server.

By contrast, *Lamberton et al* merely polls each router to see whether an answer is received. For the transaction response time log and activity audit trail, the Office Action relies on the *Mangipudi et al* reference. However, in the system of *Mangipudi et al*, anything resembling a transaction response time log is prepared only for the back end servers 210A, 210B, 210C, 210D, which is not the same thing as recited in present claim 1. There is no watching of the network activity *to and from the application servers to the entry servers*, but only at the back end servers. Moreover, there is no determination of a response *for each segment of the network traversed*, but again, only at the back end servers.

The Office Action also relies on the *Caccavale* reference for pseudo messages. However, the suggestion and the alert taught in that reference are not equivalents to a pseudo message in present claim 1, in that they do not perform the same function in the same way.

In short, *Mangipudi et al* and *Caccavale* do not overcome the deficiencies of *Lamberton et al*, with the consequence that the combination of references proposed in the Office Action would not have resulted in the present claimed invention. Therefore, the Applicants respectfully submit that the present claimed invention would not have been obvious over the proposed combination of references.

Finally, the Applicants respectfully submit that the remaining grounds of rejection are moot, as the dependent claims are patentable along with claim 1.

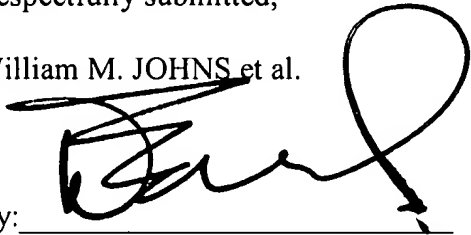
For the reasons set forth above, the Applicants respectfully submit that the application as amended is in condition for allowance. Notice of such allowance is respectfully solicited.

If there remain any issues that can be overcome through a further telephone communication, the Examiner is invited to telephone the undersigned at the telephone number set forth below.

Please charge any deficiency in fees, or credit any overpayment thereof, to the account of Blank Rome, LLP, Deposit Account No. 23-2185 (111788.00101). If a petition for an extension of time is required to render the present submission timely and either is not filed concurrently herewith or is insufficient to render the present submission timely, the Applicants hereby petition under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render the present submission timely. Any fee due is authorized above.

Respectfully submitted,

William M. JOHNS et al.

A handwritten signature in black ink, appearing to read 'David J. Edmondson', is written over a horizontal line. The signature is stylized with a large loop at the end.

By:

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